

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

HERON COVE ASSOCIATION, et al.

Plaintiffs,

Case No.: 1:24-cv-11473-MFL-PTM

v

Hon. Matthew F. Leitman

GLADWIN COUNTY BOARD OF
COMMISSIONERS, et al.,

Magistrate Judge Patricia T. Morris

Defendants.

**REPLY IN SUPPORT OF MOTION TO EXPEDITE CONSIDERATION OF
DEFENDANT FOUR LAKES TASK FORCE'S MOTION TO DISMISS**

In further support of its Motion to Expedite this Court's consideration of its pending Motion to Dismiss (ECF No. 10), Defendant Four Lakes Task Force ("FLTF"), through its counsel Clark Hill PLC, states as follows:

The Court Should Exercise Its Inherent Authority to Expedite Consideration of the Pending Motion to Dismiss.

By way of the instant Motion to Expedite, FLTF requests that the Court expedite its consideration of FLTF's pending Motion to Dismiss (ECF No. 10), brought pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). The pending Motion to Dismiss asserts, among other things: (1) that the Court lacks subject matter jurisdiction pursuant to the doctrines of collateral estoppel and res judicata, and the nonjusticiability of the Plaintiffs' respective claims; and (2) that the allegations of the Plaintiffs' operative pleading fail to state any claim upon which relief may be granted.

In their Response, Plaintiffs argue that the Court should deny FLTF's request for expedited consideration of its Motion to Dismiss because there is a "risk of erroneous deprivation of [Plaintiff] HCA's interests." Specifically, Plaintiffs argue that in addressing *the merits of their claims*, the Court would be "presented with arguments and proofs concerning the flawed methodology, the amount of the special assessments and the constitutional issues involved." According to Plaintiffs, "There is a very real risk in this case that expedited procedures will result in erroneous deprivation of property rights." Plaintiffs, however, fail to explain how expedited

consideration of FLTF's Rule 12(b)(1) and 12(b)(6) arguments for dismissal – which are jurisdictional and procedural in nature – could in any way result in a miscarriage of justice in this case. Certainly, this Court is well-equipped to consider such threshold issues as issue and claim preclusion, standing, and the sufficiency of pleadings on an expedited basis and without the need for any presentation of arguments or proofs relating to the substantive merit of the claims asserted by Plaintiffs. Indeed, consideration of the evidentiary proofs to which Plaintiffs refer in their instant Response would be entirely inappropriate in the context of a hearing on a motion to dismiss brought pursuant to Rule 12(b)(1) and/or 12(b)(6).

For these reasons, and those stated in FLTF's principal brief in support of its Motion to Expedite, FLTF respectfully requests that the Court expedite its consideration of FLTF's pending Motion to Dismiss (ECF No. 10).

Respectfully submitted,

CLARK HILL PLC

/s/ Bethany G. Stawasz

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Dated: July 29, 2024

CERTIFICATE OF SERVICE

The undersigned certifies that on July 29, 2024, the foregoing document was filed with the Court via the CM/ECF system, which will send notification to all attorneys of record.

Respectfully submitted,

CLARK HILL PLC

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